

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2008-2

PAMELA ANNE FITZPATRICK  
189 No. Villa  
Porterville, CA 93257

Certified Public Accountant Certificate  
No. CPA 64992

FITZPATRICK PROFESSIONAL  
ACCOUNTANCY, LLP  
669 Pacific, Suite A  
San Luis Obispo, CA 93401

Accountancy Partnership Certificate No.  
PAR 6986

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 16, 2008.

It is so ORDERED May 16, 2008.

  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 ELENA L. ALMANZO, State Bar No. 131058  
Deputy Attorney General  
4 1300 I Street, Suite 125  
P.O. Box 944255  
5 Sacramento, CA 94244-2550  
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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **CALIFORNIA BOARD OF ACCOUNTANCY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

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17 San Luis Obispo, CA 93401

18 Accountancy Partnership Certificate No.  
19 PAR 6986

20 Respondent.

Case No. AC-2008-2

OAH No. 2007110762

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

21  
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
23 above-entitled proceedings that the following matters are true:

24 PARTIES

25 1. Carol Sigmann (Complainant) is the Executive Officer of the California  
26 Board of Accountancy. She brought this action solely in her official capacity and is represented  
27 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Elena L.  
28 Almanzo, Deputy Attorney General.

2. Respondent Pamela Anne Fitzpatrick ("Respondent Fitzpatrick") and Respondent Fitzpatrick Professional Accountancy, LLP ("Respondent Partnership") are represented in this proceeding by attorney Albert E. Cressey, III, whose address is 1230 Rosecrans Avenue, Suite 450, Manhattan Beach, CA 90266.

3. On or about February 24, 1994, the California Board of Accountancy issued Certified Public Accountant Certificate No. CPA 64992 to Pamela Anne Fitzpatrick. The license has otherwise been renewed and will currently expire March 1, 2010, unless renewed.

4. On or about June 6, 2005, the California Board of Accountancy issued Accountancy Partnership Certificate No. PAR 6986 to FITZPATRICK PROFESSIONAL ACCOUNTANCY, LLP. The license has otherwise been renewed and will currently expire July 1, 2009, unless renewed.

#### JURISDICTION

5. Accusation No. AC-2008-2 was filed before the California Board of Accountancy (Board), Department of Consumer Affairs, and is currently pending against Respondent and Respondent Partnership. The Accusation and all other statutorily required documents were properly served on Respondent and Respondent Partnership on September 12, 2007. Respondent and Respondent Partnership timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2008-2 is attached as exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

6. Respondent and Respondent Partnership have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. AC-2008-2. Respondent and Respondent Partnership have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent and Respondent Partnership are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their

1 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the  
2 production of documents; the right to reconsideration and court review of an adverse decision;  
3 and all other rights accorded by the California Administrative Procedure Act and other applicable  
4 laws.

5 8. Respondent and Respondent Partnership voluntarily, knowingly, and  
6 intelligently waive and give up each and every right set forth above.

7 CULPABILITY

8 9. Respondent and Respondent Partnership admit the truth of each and every  
9 charge and allegation in Accusation No. AC-2008-2.

10 10. Respondent and Respondent Partnership agree that the Certified Public  
11 Accountant Certificate No. 64992 and Accountancy Partnership Certificate No. PAR 6986 are  
12 subject to discipline as set forth in Accusation No. AC-2008-2 and they agree to be bound by the  
13 Board's imposition of discipline as set forth in the Disciplinary Order below. Respondent and  
14 Respondent Partnership further agree not to take any action or make any public statement that  
15 creates, or tends to create, the impression that any of the factual matters set forth in the Stipulated  
16 Settlement, Order and Decision are without a factual basis.

17 CONTINGENCY

18 11. This stipulation shall be subject to approval by the California Board of  
19 Accountancy. Respondent and Respondent Partnership understand and agree that counsel for  
20 Complainant and the staff of the California Board of Accountancy may communicate directly  
21 with the Board regarding this stipulation and settlement, without notice to or participation by  
22 Respondent or her counsel. By signing the stipulation, Respondent and Respondent Partnership  
23 understand and agree that they may not withdraw their agreement or seek to rescind the  
24 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this  
25 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of  
26 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
27 the parties, and the Board shall not be disqualified from further action by having considered this  
28 matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that both Certified Public Accountant No. CPA 64992 and Accountancy Partnership Certificate No. PAR 6986 issued to Pamela Anne Fitzpatrick are revoked. However, the revocations are stayed and both Respondent and Respondent Partnership are placed on probation for three (3) years on the following terms and conditions set forth below.

1. **Actual Suspension.** Both Certified Public Accountant No. CPA 64992 issued to Respondent and Accountancy Partnership Certificate No. PAR 6986 issued to Respondent Partnership are suspended for forty-five (45) days. During the period of suspension the Respondents shall not engage in activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

2. **Obey All Laws.** Respondents shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

3. **Submit Written Reports.** Respondents shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

1                   4.     **Personal Appearances.** Respondents shall, during the period of  
2 probation, appear in person at interviews/meetings as directed by the Board or its designated  
3 representatives, provided such notification is accomplished in a timely manner.

4                   5.     **Comply With Probation.** Respondents shall fully comply with the terms  
5 and conditions of the probation imposed by the Board and shall cooperate fully with  
6 representatives of the Board of Accountancy in its monitoring and investigation of the  
7 Respondent's compliance with probation terms and conditions.

8                   6.     **Practice Investigation.** Respondents shall be subject to, and shall permit,  
9 practice investigation of the Respondent's professional practice. Such a practice investigation  
10 shall be conducted by representatives of the Board, provided notification of such review is  
11 accomplished in a timely manner.

12                  7.     **Comply With Citations.** Respondents shall comply with all final orders  
13 resulting from citations issued by the Board of Accountancy.

14                  8.     **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
15 Respondents should leave California to reside or practice outside this state, Respondents must  
16 notify the Board in writing of the dates of departure and return. Periods of non-California  
17 residency or practice outside the state shall not apply to reduction of the probationary period, or  
18 of any suspension. No obligation imposed herein, including requirements to file written reports,  
19 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise  
20 affected by such periods of out-of-state residency or practice except at the written direction of the  
21 Board.

22                  9.     **Violation of Probation.** If Respondents violate probation in any respect,  
23 the Board, after giving Respondents notice and an opportunity to be heard, may revoke probation  
24 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke  
25 probation is filed against Respondents during probation, the Board shall have continuing  
26 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
27 is final.

28     ///

1                   10.     **Completion of Probation.** Upon successful completion of probation,  
2 Respondents' licenses will be fully restored.

3                   11.     **Ethics Course/Examination.** Respondent shall take and pass with a score  
4 of 90 percent or better a Board approved ethics examination prior to the resumption of practice.

5                   If Respondent fails to pass said examination within the time period provided or  
6 within two attempts, Respondent shall so notify the Board and shall cease practice until  
7 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,  
8 and has been notified by the Board that she may resume practice. Failure to pass the required  
9 examination no later than 100 days prior to the termination of probation shall constitute a  
10 violation of probation.

11                  Notwithstanding any other provision of this probation, failure to take and pass this  
12 examination within five years of the effective date of this order constitutes a separate cause for  
13 discipline of Respondent's license.

14                  12.     **Active License Status.** Respondent shall at all times maintain an active  
15 license status with the Board, including during any period of suspension. If the license is expired  
16 at the time the Board's decision becomes effective, the license must be renewed within 30 days of  
17 the effective date of the decision.

18                  13.     **Cost Reimbursement.** Respondents shall reimburse the Board \$4,931.75  
19 for its investigation and prosecution costs. The payment shall be made within thirty (30) days of  
20 the date the Board's decision is final.

21                  14.     **Notification to Clients/Cessation of Practice.** In orders which provide  
22 for a cessation or suspension of practice, Respondent Fitzpatrick shall comply with procedures  
23 provided by the Board of Accountancy or its designee regarding notification to, and management  
24 of, clients.

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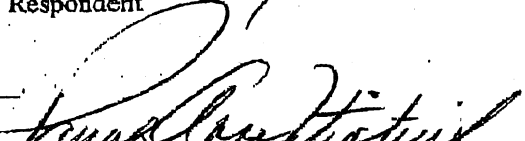
ACCEPTANCE

Respondents have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Albert E. Cressey, III. Respondents understand the stipulation and the effect it will have on their licenses with the Board. Respondents enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: 4/9/08

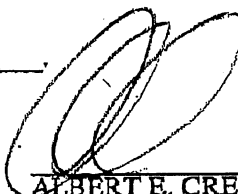
  
PAMELA ANNE FITZPATRICK  
Respondent

DATED: 4/9/08

  
PAMELA ANNE FITZPATRICK FOR  
FITZPATRICK PROFESSIONAL  
ACCOUNTANCY, LLP  
Respondent Partnership

I have read and fully discussed with Respondent Pamela Anne Fitzpatrick and Respondent Fitzpatrick Professional Accountancy, LLP the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4/9/08

  
ALBERT E. CRESSEY, III  
Attorney for Respondents



1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
3 submitted for consideration by the California Board of Accountancy of the Department of  
4 Consumer Affairs.

5  
6 DATED: 4/10/08

7 EDMUND G. BROWN JR., Attorney General  
8 of the State of California

9 ARTHUR D. TAGGART  
10 Supervising Deputy Attorney General

11   
12 ELENA L. ALMANZO  
13 Deputy Attorney General

14 Attorneys for Complainant

15 DOJ Matter ID: SA2007101929  
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**Exhibit A**  
**Accusation No. AC-2008-2**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 ELENA L. ALMANZO, State Bar No. 131058  
Deputy Attorney General  
4 California Department of Justice  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-6121  
Facsimile: (916) 324-5567

7 Attorneys for Complainant

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9 **BEFORE THE**  
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11 In the Matter of the Accusation Against:

Case No. AC-2008-2

12 PAMELA ANNE FITZPATRICK  
13 189 No. Villa  
Porterville, CA 93257

**ACCUSATION**

14 Certified Public Accountant Certificate  
15 Number CPA 64992

16 FITZPATRICK PROFESSIONAL  
ACCOUNTANCY, LLP  
17 4048 East Branch Street  
Arroyo Grande, CA 93420

18 Accountancy Partnership Certificate Number  
19 PAR 6986

20 Respondents.  
21

22 Complainant alleges:

23 **PARTIES**

24 1. Carol Sigmann (Complainant) brings this Accusation solely in her official  
25 capacity as the Executive Officer of the California Board of Accountancy, Department of  
26 Consumer Affairs.

27 2. On or about February 24, 1994, the California Board of Accountancy  
28 issued Certified Public Accountant Certificate Number CPA 64992 to Pamela Anne Fitzpatrick

(Respondent "Fitzpatrick"). Said license was delinquent for the period of March 1, 1996 through March 22, 1996. The license has otherwise been renewed and will currently expire February 29, 2008, unless renewed.

3. On or about June 6, 2005, the California Board of Accountancy issued Accountancy Partnership Certificate Number PAR 6986 to FITZPATRICK PROFESSIONAL ACCOUNTANCY, LLP. (Respondent "Fitzpatrick Partnership"). Said license expired July 1, 2007.

#### JURISDICTION

4. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 5100 states in pertinent part:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"(h) Suspension or revocation of the right to practice before any governmental body or agency."

6. Section 5109 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a license, practice, privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license."

7. Section 5063 of the Code requires a licensee to report in writing to the Board within 30 days the cancellation, revocation, or suspension of a certificate or refusal to

1 renew a certificate to practice as a certified public accountant or a public accountant, by any other  
2 state or foreign country, and the cancellation, revocation, or suspension of the right to practice as  
3 a certified public accountant or a public accountant before any governmental body or agency.

4 8. Section 5107(a) of the Code states:

5 "The executive officer of the board may request the administrative law judge, as  
6 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or  
7 certificate found to have committed a violation or violations of this chapter to pay to the board all  
8 reasonable costs of investigation and prosecution of the case, including, but not limited to,  
9 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

10 9. Section 5101 states:

11 "After notice and hearing the board shall revoke the registration and permit to  
12 practice of a partnership if at any time it does not have all the qualifications prescribed by the  
13 section of this chapter under which it qualified for registration. After notice and hearing the  
14 board may revoke, suspend or refuse to renew the permit to practice of a partnership or may  
15 censure the holder of such permit for any of the causes enumerated in Section 5100 and for the  
16 following additional causes:

17 "(a) The revocation or suspension of the certificate or registration or the  
18 revocation or suspension of or refusal to renew the permit to practice of any partner.

19 "(b) The cancellation, revocation or suspension of certificate or other authority to  
20 practice or refusal to renew the certificate or other authority of the partnership of any partner  
21 thereof to practice public accountancy in any other state."

22 FIRST CAUSE FOR DISCIPLINE

23 (Suspension of the Right to Practice)

24 10. Respondent Fitzpatrick is subject to disciplinary action under section  
25 5100(h) of the Code in that respondent was suspended from practice before a governmental  
26 agency. The circumstances are as follows:

27 11. On or about November 14, 2005, in *Director of Professional*  
28 *Responsibility v. Pamela Fitzpatrick*, an order was entered suspending Respondent Fitzpatrick

1 from practice before the Internal Revenue Service for a period of forty-eight (48) months for the  
2 period of November 14, 2005, to November 13, 2009. The decision issued by the Internal  
3 Revenue Service provided that Respondent Fitzpatrick's eligibility to practice before the Internal  
4 Revenue Service is subject to suspension or disbarment by reason of disreputable conduct.

5 SECOND CAUSE FOR DISCIPLINE

6 (Failure to Report Suspension to Board)

7 12. Respondent Fitzpatrick is subject to disciplinary action under section 5063  
8 of the Code in that Respondent Fitzpatrick failed to notify the Board of her suspension to practice  
9 before the Internal Revenue Service within thirty days of said suspension. The circumstances  
10 are as follows:

11 13. On or about November 5, 2005, Respondent Fitzpatrick was suspended  
12 from practice before the Internal Revenue Service. Respondent Fitzpatrick failed to notify the  
13 Board of her suspension.

14 OTHER MATTERS

15 ( Derivative Jurisdiction )

16 14. Respondent Fitzpatrick Partnership is subject to disciplinary action under  
17 section 5101 of the Code in that if the Board disciplines Respondent Fitzpatrick, a partner of  
18 Fitzpatrick Professional Accountancy, LLP., said partnership's certificate is subject to discipline.

19 DISCIPLINE CONSIDERATIONS

20 15. To determine the degree of discipline, if any, to be imposed on  
21 Respondent Fitzpatrick, Complainant alleges that on or about October 30, 2004, in a prior action,  
22 the California Board of Accountancy issued Citation Number CT-2005-3 and ordered  
23 Respondent Fitzpatrick to provide copies of adjustments made to the financial statements of  
24 Doug Fleenor Design, Inc. and to pay civil penalties in the amount of \$1,750. That Citation is  
25 now final and is incorporated by reference as if fully set forth.

26 ///

27 ///

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the California Board of Accountancy issue a decision:


4 1. Revoking or suspending or otherwise imposing discipline upon Certified  
5 Public Accountant Certificate Number CPA 64992, issued to PAMELA ANNE FITZPATRICK;

6 2. Revoking or suspending or otherwise imposing discipline upon  
7 FITZPATRICK PROFESSIONAL ACCOUNTANCY, LLP., Accountancy Partnership  
8 Certificate Number PAR 6986 ;

9 3. Ordering PAMELA ANNE FITZPATRICK, and FITZPATRICK  
10 PROFESSIONAL ACCOUNTANCY, LLP. to pay the California Board of Accountancy the  
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
12 Professions Code section 5107; and

13 4. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: August 30, 2007

16  
17   
18 CAROL SIGMANN  
19 Executive Officer  
20 California Board of Accountancy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant